

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Granted.
SO ORDERED
[Signature]
KENNETH M. KARAS U.S.D.J.
12/16/19

SHIRLEY WHALEY

Plaintiff,

vs.

C. R. BARD, INC., and BARD
PERIPHERAL VASCULAR, INC.

Defendants.

Civil Action No. 7:19-CV-08524-KMK

Hon. Kenneth M. Karas

PLAINTIFF'S MOTION FOR LEAVE TO FILE UNDER SEAL
CONFIDENTIAL INFORMATION

Pursuant to Local Rule 5.2 and the Stipulated Protective Order in the Bard MDL (CMO 3), Plaintiff moves for leave to file under seal: **Exhibit A** to Plaintiff's Motion to Consolidate *Johnson v. C.R. Bard Incorporated, et al.*, No. 7:19-cv-08478-KMK; *Petro v. C.R. Bard Incorporated, et al.*, No. 7:19-cv-08480-KMK; and *Whaley v. C.R. Bard Incorporated, et al.*, No. 7:19-cv-08524-KMK, pending before the United States District Court for the Southern District of New York.

Exhibit A to the Plaintiff's Motion to Consolidate contains confidential information that is protected under the Stipulated Protective Order, warranting protection from public disclosure. Accordingly, there is good cause to grant Plaintiff's Motion for Leave to File Under Seal Confidential Information.

ARGUMENT AND CITATION OF AUTHORITY

Federal Rule of Civil Procedure 26(c)(1) states that a court may issue an order protecting a "trade secret or other confidential research, development, or commercial information" from public disclosure "for good cause." "When litigation requires disclosure of trade secrets, the court may disclose certain materials only to the attorneys involved." *In re New York Times Co. to Unseal*

Wiretap & Search Warrant Materials, 577 F.3d 401, 410 n.4 (2d Cir. 2008). As this Court has recognized, an order sealing materials filed with the Court may be entered to protect proprietary information concerning a Defendant's product development, if the privacy interests of the defendants outweigh the presumption of public access. *GoSmile, Inc. v. Levine*, 769 F. Supp. 2d 630, 649 (S.D.N.Y. 2011). Pursuant to the MDL's CMO, Defendants designated **Exhibit A** to the Plaintiff's Motion to Consolidate as confidential on the basis that it would reveal their confidential, proprietary and trade secret information. Accordingly, good cause exists for sealing: **Exhibit A** to the Plaintiff's Motion to Consolidate.

WHEREFORE, the Plaintiff prays that this Court seal: **Exhibit A** to the Plaintiff's Motion to Consolidate.

Respectfully submitted

MARTIN BAUGHMAN, PLLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing has been filed using the Court's CM/ECF system, which automatically sends a notice of electronic filing to all counsel of record on this 13th day of December, 2019.

/s/ Laura J. Baughman

Laura J. Baughman